

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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| UNITED STATES OF AMERICA, |) | CASE NO. CR23-179-RAJ |
| |) | |
| Plaintiff, |) | Seattle, Washington |
| |) | |
| v. |) | March 14, 2024 |
| |) | 11:30 a.m. |
| CHANGPENG ZHAO, |) | |
| |) | Telephone Conference |
| Defendant. |) | |
| |) | via Telephone |

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE RICHARD A. JONES
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: KEVIN GERARD MOSLEY
U.S. Department of Justice
Criminal Division
Money Laundering and Asset
Recovery Section
1400 New York Avenue Northwest
Washington, DC 20005

For the Defendant: MARK N. BARTLETT
Davis Wright Tremaine
920 Fifth Avenue, Suite 3300
Seattle, WA 98104-1610

U.S. Probation and
Pretrial Services: ERIN O'DONNELL

Reported by: MARCI E.C. CHATELAIN, CCR, RPR, RMR,
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PROCEEDINGS

THE CLERK: Good morning, Your Honor.

THE COURT: Good morning, Ms. Erickson.

Please call the case.

THE CLERK: Yes, Your Honor.

We are here in the matter of the United States versus
Changpeng Zhao, cause number CR23-179, assigned to this Court.

If counsel first for the government can make your
appearance for the record.

MR. MOSLEY: Good morning, Your Honor. Kevin Mosley
for the United States.

THE COURT: Good morning.

THE CLERK: And counsel for the defendant, please.

MR. BARTLETT: Good morning, Your Honor. Mark
Bartlett for Mr. Zhao.

THE COURT: Good morning.

And for pretrial services, please.

MS. O'DONNELL: Good morning. Erin O'Donnell for
Pretrial Services.

THE CLERK: And, Your Honor, we have Mr. Zhao on the
line, as well as our court reporter Marci Chatelain.

THE COURT: All right. Good morning, all of you.

Thank you for responding to the Court's inquiry. I just
want to make sure that we were clear. I received communication

1 from Ms. O'Donnell regarding the reporting requirements for Mr.
2 Zhao if he elects to travel within the Continental United
3 States. And actually, the Court was under the impression that
4 he was under some form of pretrial supervision. That does not
11:31:52 5 appear to be the case.

6 And I note that the last order the Court signed, which is
7 the order modifying bond, that is Docket No. 71, it reflects
8 that defendant must notify Pretrial Services before any travel
9 within the United States, within the Continental United States.

11:32:11 10 Ms. O'Donnell, would you please express your concerns
11 regarding the current order and the reporting requirements?

12 MS. O'DONNELL: Yes, Your Honor.

13 Erin O'Donnell, for the record.

14 And supervision was not ordered on the original appearance
11:32:26 15 bond and was not added at the original order from Your Honor, so
16 we have not been supervising him.

17 I was -- became aware of the recently signed order because
18 Mr. Zhao did comply with it. And he e-mailed me because he had
19 no other contacts with Pretrial Services to contact.

11:32:52 20 And I'm attempting to find the e-mail that I detailed some
21 of the things for myself for notes.

22 We think that surrendering the passport as ordered in that
23 Document No. 71 is sufficient to ensure that he abides by the
24 conditions not to leave the United States, in particular because
11:33:18 25 I will be submitting a notice to the Department of State once

1 I've confirmed that those have been surrendered to defense
2 counsel.

3 And we don't think that supervision would provide enough
4 additional benefit or increased restriction on Mr. Zhao, so we
11:33:32 5 don't think that supervision is necessary, which I believe
6 leaves the Court with a question of who he would report travel
7 to.

8 THE COURT: All right. Thank you.

9 Let me hear from the parties.

11:33:46 10 One, just to clear the air, it's not the Court's intention
11 to add a condition of supervision that was not previously
12 referenced by Judge Tsuchida's original order. That hasn't been
13 modified by the Court or revised by this Court.

14 And I believe Ms. O'Donnell's representation that no
11:34:05 15 additional benefit would be served by adding pretrial
16 supervision beyond what's currently in existence, which is a
17 reporting requirement.

18 So my main concern is, I want to make sure that the parties
19 are clear to whom Mr. Zhao is reporting his travel information
11:34:23 20 to.

21 Let me hear first from counsel for the government.

22 MR. MOSLEY: Thank you, Your Honor.

23 With respect to the question as to who Mr. Zhao would
24 report to, I think in our initial -- in our initial motion, we
11:34:42 25 had asked for reporting to the United States and to Pretrial

1 Services only for the purposes of -- you know, for us to be able
2 to raise to the Court if there was any reason why we would
3 potentially object to Mr. Zhao's travel.

11:35:08

4 To be clear, we -- our position was not that we would, as a
5 rule, object to his travel. In fact, we would assume that the
6 default position would be that he would be able to travel.

11:35:25

7 I think, as we noted in our motion, I think we just would
8 like to be able to raise an issue with the Court, if we thought
9 there was one, to sort of handle any sort of residual potential,
10 and I emphasize the word "potential," flight risk.

11:35:43

11 I think the example we raised in our motion was that if he
12 was, for example, in possession of his Canadian passport or
13 would travel close to the Canadian border or any other border of
14 the United States in a way that would raise concerns for us
15 regarding flight, I think we'd want to be able to raise that
16 issue with the Court. We don't -- we don't necessarily
17 anticipate any of that happening, but we would want that
18 opportunity.

11:35:58

19 And to the extent that the Court has agreed with the idea
20 that he should report, if he is not going to report to Pretrial
21 Services, I think he should report to us.

11:36:16

22 THE COURT: All right. I believe in your original
23 request of the Court, you had asked me for advance notice. And
24 you note the order that was issued, the Court did not include an
25 advance notification of travel, it's just to notify before any

1 travel within the Continental United States. That wasn't to the
2 government --

3 UNIDENTIFIED SPEAKER: (Inaudible.)

4 THE COURT: -- Pretrial Services.

11:36:27 5 Let me hear from Mr. Bartlett.

6 MR. BARTLETT: Yes, Your Honor.

7 As the Court just pointed out, I don't think we're here to
8 revisit what the Court just ordered last week. And I would ask
9 that we simply adopt what has been occurring, in default.

11:36:45 10 I mean, just to go over, it's been almost four months that
11 Mr. Zhao has been in the United States. And clearly, there's
12 been no issues whatsoever with regard to this. We're about six
13 weeks out from sentencing right now, so we're kind of at the end
14 of this process.

11:37:01 15 I should note, and I think the Court obviously has noted
16 this, you issued your latest order on March 11th. And the very
17 next day, Mr. Zhao notified Erin O'Donnell about his travel. So
18 it's clear that he's totally dedicated to complying.

19 I would suggest that we keep with what already is in
11:37:22 20 existence, which is that when Mr. Zhao travels, he'll notify
21 Ms. O'Donnell and provide her an update on what he's doing.

22 You know, his primary base here in the United States is at
23 his sister's residence in Los Angeles, which she already has
24 that information. It's been a long stay, I think a little
11:37:45 25 longer than perhaps we might have anticipated, so he does travel

1 at times, but we will, obviously, provide notice of that to
2 Ms. O'Donnell if she has any concerns.

3 THE COURT: Let me ask Mr. Bartlett, do you have any
4 objection to Mr. Mosley's request to also notify the United
11:38:05 5 States of travel?

6 MR. BARTLETT: If the Court believes that a dual
7 notice of both -- to Ms. O'Donnell and to the United States
8 would be helpful from the Court's perspective, I do not believe
9 we would have any objection to that, Your Honor. I don't think
11:38:29 10 it's necessary.

11 I don't quite understand the -- to just note the obvious,
12 Mr. Mosley mentioned that, you know, they would be concerned if
13 Mr. Zhao was traveling, for example, near the Canadian border.
14 Well, obviously, if he was in Seattle, he would be near the
11:38:51 15 Canadian border, so I think, to a certain point, they're
16 creating false concerns that just have no basis in reality.

17 THE COURT: Okay. Anything further from Mr. Mosley?

18 MR. MOSLEY: Yes, Your Honor.

19 You know, I think we don't have a problem with the
11:39:14 20 defense's proposal to notify Ms. O'Donnell.

21 I was under the impression, and possibly the mistaken
22 impression, that Ms. O'Donnell did not want to be notified and
23 that there was no other entity to notify, which is why I
24 suggested that if there was no other entity, that we would do
11:39:30 25 it.

1 But, you know, obviously, if the defense has no objection
2 to notifying us, too, we would, you know, appreciate being
3 notified.

4 THE COURT: All right.

11:39:41

5 MR. BARTLETT: Well, and to clarify I think what I
6 spoke -- what I said, Your Honor, is that if the Court believed
7 this would be appropriate, we would obviously agree with the
8 Court's decision.

11:39:56

9 Our belief is that what the Court ordered on March 11th is
10 what should be imposed, which is that we notify Ms. O'Donnell.

11:40:16

11 THE COURT: All right. Well, based upon the record so
12 far, I haven't seen anything that would draw any particular
13 concern for this Court regarding Mr. Zhao not complying with the
14 Court's expectations and reporting. I think we just had a gap
15 in where the reporting should take place.

16 The order that the Court previously indicated clearly
17 indicates that defendant is to notify Pretrial Services before
18 any travel. I'm comfortable with Mr. Zhao providing that notice
19 to Ms. O'Donnell, and that seems to be sufficient.

11:40:36

20 I don't see that there's any degree of difficulty,
21 significant prejudice by also notifying the government.

22 And, Mr. Mosley, are you prepared to accept the
23 notification that's sufficient on the government's perspective?

24 MR. MOSLEY: Yes, Your Honor.

11:40:52

25 THE COURT: All right. And then, Ms. O'Donnell,

1 you're comfortable serving as the recipient if Mr. Zhao elects
2 to travel within the United States?

3 MS. O'DONNELL: Yes, Your Honor, if that is what you
4 would wish, but I'm, quite frankly, not sure I see the point of
11:41:10 5 the dual notification, like defense counsel.

6 THE COURT: You can notice the government, is that
7 what --

8 MS. O'DONNELL: (Inaudible.) I'm sorry, Your Honor,
9 go ahead.

11:41:17 10 THE COURT: You broke up. I couldn't hear your last
11 response.

12 MS. O'DONNELL: So --

13 THE COURT: That you'd be --

14 MS. O'DONNELL: I was trying to say that otherwise, I
11:41:28 15 don't have involvement in the case, other than Mr. Zhao
16 e-mailing me his travel plans. So I'm not sure I see a point of
17 having dual notification, like defense counsel indicated or that
18 I be involved as a middle person, if the government is willing
19 to receive that notification directly.

11:41:44 20 THE COURT: Does that appear to satisfy the concern,
21 since there's no supervision that's taking place by Pretrial, to
22 just have the defendant notify the government? Does that meet
23 your concerns, Mr. Bartlett?

24 MR. BARTLETT: Well, the only thing I would point out,
11:42:00 25 Your Honor, is that this notification is for the Court, and

1 Ms. O'Donnell is an arm of the Court. That's who we're
2 notifying; we're notifying the Court of his travel. This isn't
3 -- and I don't want to be too technical about it, but we're not
4 looking for the approval of DOJ on our travel, we're look --
11:42:21 5 we're wanting the Court to be involved in that. And that is the
6 position that Ms. O'Donnell serves in this, that we are able to
7 notify her. And clearly, I mean, if something came up where
8 they were concerned, she could make the Court aware of her
9 concerns and make us aware of her concern, so -- and it's been
11:42:39 10 working. I'm -- I would -- that's the obvious, which I think
11 this process has been working.

12 And to the extent the government is trying to intercede
13 into this and step into a position that is, in fact, part of the
14 Court, not their duties, I think it's inappropriate.

11:42:59 15 THE COURT: All right. Just to close this out, I
16 don't think it's going to become an issue.

17 Mr. Zhao, from all that I've seen, read, and reviewed, has
18 been in full compliance with the directives, in compliance with
19 the Plea Agreement. He's been in compliance with the
11:43:15 20 expectations of this Court up to this point. I have no reason
21 to believe that that would be any different going forward.

22 I don't see it's a major -- anything of significance in
23 terms of reporting to both pretrial and to the government, so
24 that will be the order of the Court: The notice will be to
11:43:35 25 Ms. O'Donnell and the notice will be to counsel for the

1 government.

2 And again, I do not want Mr. Zhao or the defense to think
3 that the Court is looking at this of any concern that he would
4 travel outside the boundaries of the Continental United States;
5 is that clear?

6 MR. BARTLETT: It is, Your Honor. And thank you.

7 THE COURT: Counsel for the government?

8 MR. MOSLEY: No objection, Your Honor.

9 THE COURT: All right. Is there --

10 MR. MOSLEY: Thank you, Your Honor.

11 THE COURT: Anything more than just a minute entry
12 that needs to be entered, or do we need a formal order for this?

13 MR. BARTLETT: I think a minute entry will suffice.

14 THE COURT: Counsel for the government?

15 MS. O'DONNELL: That's fine.

16 MR. MOSLEY: No objection, Your Honor.

17 THE COURT: All right. Ms. Ericksen, I'll direct that
18 you provide a minute entry verifying the Court's order.

19 Anything else to take up, counsel for the government?

20 MR. MOSLEY: Nothing from us, Your Honor. Thank you.

21 THE COURT: The defense?

22 MR. BARTLETT: Nothing, Your Honor.

23 And thank you for your time. I feel bad that we imposed
24 upon you again today.

25 THE COURT: That's perfectly fine, Counsel. It was

1 actually at the Court's directive for this to take place just so
2 everything's clear.

3 With that, we'll be in recess. Have a good day.

4 UNIDENTIFIED SPEAKER: Thank you.

5 (Court recessed 11:44 a.m.)

6 C E R T I F I C A T E

7 I certify that the foregoing is a correct transcript from
8 the record of proceedings in the above-entitled matter.

9 /s/ Marci E.C. Chatelain

10 Marci E.C. Chatelain, CCR, RPR, RMR, CRR
11 Federal Court Reporter
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